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SENATE

REPORT
99-48

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION ACT OF 1985

MAY 14 (legislative day, APRIL 15), 1985.—Ordered to be printed

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Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 863]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 863) to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1986 and 1987, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

PURPOSE OF BILL

The National Highway Traffic Safety Administration (NHTSA) of the Department of Transportation (DOT) is responsible for motor vehicle safety on our Nation's highways. While advances have been made in recent years in the field of highway safety, the death and injury toll from highway accidents continues to be substantial.

This legislation amends the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1986 and 1987 for the purpose of carrying out various NHTSA programs. The legislation would also direct NHTSA to take steps to upgrade and expand the current side impact crash protection standard and to establish an automobile crashworthiness rating system for new

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cars. The legislation also would prohibit the importation of cars which do not meet U.S. safety and emission standards, except in certain specified instances.

Background and Need

The NHTSA administers three major statutes: the National Traffic and Motor Vehicle Safety Act of 1966; the Highway Safety Act of 1966; and the Motor Vehicle Information and Cost Savings Act. These statutes direct NHTSA to establish safety standards, mandate compliance, undertake safety research, order recalls, and provide consumers with information on motor vehicles.

On February 21, 1985, the Commerce Committee conducted a hearing on oversight of NHTSA and means of improving highway safety. Testimony presented at this hearing demonstrated that many of NHTSA's programs actively are promoting highway safety; chief among these efforts are NHTSA's drunk driving and child passenger safety programs. According to NHTSA Administrator Diane Steed, the highway accident fatality rate in 1984 declined to an all-time low of 2.55 deaths per hundred million vehicle-miles travelled. Despite this improvement, however, approximately 43,800 people died in highway accidents in the United States in 1984.

Nevertheless, NHTSA in recent years has been, and continues to be, a target of criticism from those who believe that NHTSA is not effectively carrying out its mandate to save lives, reduce injuries, and reduce consumer costs of accidents.

Among NHTSA's major activities in recent years are the following.

PASSIVE RESTRAINTS

In 1967, DOT issued the original occupant protection standard, Federal Motor Vehicle Safety Standard 208, which required seat belts in all cars. In 1972, this standard was revised to include "complete passive protection" on vehicles manufactured after August 15, 1975. In the interim, vehicles built between August 1973 and August 1975 were to carry either passive restraints or lap and shoulder belts coupled with an "ignition interlock" that would prevent starting the vehicle if the belts were not connected. Most manufacturers chose the second option, which caused such an adverse public reaction that Congress rejected the entire passive restraint standard in 1974.

In 1977, DOT issued a new mandatory passive restraint regulation, with an implementation schedule based on vehicle size. The modified standard required installation of air bags or passive seat belts in large cars by September 1, 1981; in mid-size cars by September 1, 1982; and in small cars by September 1, 1983. This standard was challenged in court by Pacific Legal Foundation and others. The U.S. Court Of Appeals for the D.C. Circuit, rejecting the petitioners' arguments, found the standard a rational, nonarbitrary regulation consistent with the agency's mandate.

In October 1981, NHTSA rescinded modified standard 208; this action was premised almost entirely on the fact that most manufacturers had indicated that they would meet the standard by

using a "detachable" automatic belt, which NHTSA conceded would not increase belt usage significantly. NHTSA also expressed uncertainty about public acceptability and use of automatic safety belts and noted the "relatively substantial cost" of automatic restraints.

This rescission was challenged in court by State Farm Mutual and others. In June 1982, the U.S. Court of Appeals for the D.C. Circuit reversed NHTSA's rescission of the standard and in June 1983, the Supreme Court held in a unanimous opinion that NHTSA's rescission of the passive restraint standard had been "arbitrary and capricious." The Court also held by a majority vote that NHTSA was too quick to dismiss the safety benefits of automatic seat belts, and failed adequately to consider an air bag-only option for the standard. The Court vacated the judgment of the court of appeals, and remanded the case to the court of appeals with directions to remand the matter to NHTSA for further consideration consistent with the Court's opinion.

In response to the Court's directive, DOT initiated a new rulemaking on standard 208 and in July 1984, issued a new passive restraint regulation. This standard provides for the following:

1. Cars manufactured for sale in the United States must be equipped with passive seat belts, air bags, or energy absorbing interiors, using the following phased-in schedule: 10 percent of the cars after September 1, 1986; 25 percent of the cars after September 1, 1987; 40 percent of the cars after September 1, 1988; and all cars after September 1, 1989;

2. To encourage use of air bags or other new technologies, DOT will credit a manufacturer with one and one-half cars for every one car complying with the standard on the driver side by means other than automatic belts; and

3. The above passive restraint requirements will be rescinded if States representing at least two-thirds of the U.S. population have enacted mandatory seat belt use laws by April 1, 1989.

DOT also announced plans to spend $40 million per year ($20 million from DOT funds and $20 million from private sources) to encourage greater use of seat belts and to support enactment of State mandatory seat belt use laws. (To date, seven States—New York, New Jersey, Michigan, Illinois, Missouri, New Mexico, and Indiana—have enacted such laws.)

DOT's most recent passive restraint rule is now being challenged in court by members of the insurance industry. Their case centers around two premises:

1. DOT's abandonment of passive restraints, a proven safety technology, in favor of mandatory seat belt use laws, which have a mixed record of success, is arbitrary and capricious; and

2. DOT's decision to make a Federal safety standard contingent on State action (i.e., enactment of mandatory seat belt laws), is not in accordance with DOT's statutory responsibilities.

Oral argument in this case occurred in March.

AUTOMOBILE BUMPERS

In 1971, NHTSA promulgated the part 215 bumper safety standard, pursuant to the National Traffic and Motor Vehicle Safety Act of 1966. This standard, which went into effect in September 1972, required that bumpers be able to withstand collisions at up to 5 mph in the front and 2.5 mph in the rear, without permitting damage to safety-related equipment (that is, headlamps and taillights; door, trunk and hood latches; and the cooling and fuel exhaust systems.) The standard was upgraded a year later to include 5 mph impact speeds for both front and rear bumpers and 3 mph at the corners. It also included impact with a pendulum-type device, in addition to the barrier impact already required, thus making the test more stringent.

In October 1972, Congress enacted the Motor Vehicle Information and Cost Savings Act, with the stated purpose of reducing the economic losses caused by traffic accidents. NHTSA was directed to promulgate bumper standards that would increase damage protection levels over those existing at the time the act was passed. To accomplish this, NHTSA promulgated the part 581 standard in 1976. This standard incorporated the part 215 safety standard and, starting with 1979 model cars, required bumpers to be capable of withstanding 5 mph collisions without damage to any exterior part of the automobile; in 1980 model year cars, this was expanded to include the bumper itself.

In May 1982, NHTSA reduced the standard from 5 mph to 2.5 mph for both front and rear bumpers and eliminated entirely the requirement that the bumper itself be capable of withstanding damage at a specified speed. NHTSA said that the 5 mph bumper did not have any safety benefits and asserted that the 2.5 mph bumpers would cost and weigh less than the 5 mph bumpers, leading to lower sticker prices and improved fuel economy.

NHTSA's decision to roll back the bumper standard was challenged in the courts by State Farm Mutual and Allstate Insurance Companies. In January 1985, the U.S. Court of Appeals upheld NHTSA's decision, noting that NHTSA had made a "reasonable" decision, given the evidence available to the agency at that time. Further court challenges on this standard are anticipated.

DRUNK DRIVING

In recent years, Congress has taken steps to address the national tragedy resulting from drunk driving. In October 1982, legislation was enacted to encourage States to take more effective action against drunk drivers. This act, Public Law 97-364, provides for a two-tiered incentive grant program. States become eligible for a basic grant if they meet four criteria: (1) Prompt license suspension for drunk drivers; (2) mandatory imprisonment or community service for repeat offenders; (3) a 0.10 percent blood alcohol content (BAC) as per se evidence of intoxication; and (4) increased enforcement and public information efforts. States can qualify for additional funding under a supplemental grant program if they meet additional criteria specified by NHTSA, along with the four basic grant criteria. According to NHTSA Administrator Steed's February 1985 testimony, 16 States have qualified for basic grants, with

13 of these States also qualifying for supplementary grants. Other States have enacted legislation satisfying several of the grant criteria specified in the 1982 law and are working to satisfy the remaining criteria. NHTSA is working with the States participating in this grant program to implement their programs. NHTSA reported to the Committee that several of the qualifying States already have shown significant progress in reducing alcohol-related highway fatalities.

In 1984, legislation was enacted which directs DOT to withhold 5 percent of the fiscal 1987 Federal-aid highway funds and 10 percent of fiscal 1988 funds from any State that permits the purchase or public possession of alcohol by persons under the age of 21. The 1984 legislation also established Federal incentive grant programs to encourage States to enact mandatory sentencing laws for drunk driving offenders and to enable States to computerize their traffic records systems in order to direct more easily enforcement activities to areas where drunk driving accidents are most likely to occur.

Despite the significant actions being taken at the Federal and State levels in this area, and the fact that alcohol-related fatalities have significantly decreased, drunk driving remains a serious problem.

CHILD PASSENGER SAFETY

Automobile accidents are the number one killer and crippler of young children in the United States. Child passenger safety seats are a proven means of preventing the vast majority of child fatalities and serious injuries in auto accidents.

All 50 States and the District of Columbia now have child restraint laws; NHTSA has been actively involved in these efforts.

The focus at the Federal level now appears to be shifting toward implementation of comprehensive programs to support the laws and enforcement of the laws. Further, as States have limited funds available for a variety of different highway safety programs, funding is needed for loaner programs, hospital and community-based training programs in correct usage of child restraints, and public information and education. Legislation enacted in 1984, Public Law 98–363, took steps to address this concern by requiring States to spend 8 percent of their Federal highway safety grant funds in fiscal years 1985 and 1986 on child passenger safety programs.

Public information efforts are vitally important to encourage use of child safety seats. It is critical that the notion that a child is safest in a parent's arms be dispelled. Children are not shielded from harm in automobile accidents when held in a parent's arms. Even in collision at speeds as low as 15 mph, it is physically impossible for a parent to hold a child. Further, in a 30 mph crash, a mother weighing 100 pounds who is holding her child will slam against that child with the force of 3,000 pounds. The child often will serve as a cushion, protecting the mother from bodily harm, while the mother crushes the child between herself and the dashboard.

The usage rate of child safety seats must also be increased to afford maximum protection. Among infants under the age of 1,

only 32 percent are properly placed into child safety seats, while only 16 percent of toddlers between 1 and 4 years are protected by use of these seats.

SIDE IMPACT PROTECTION

The Federal safety standard governing side impact protection, standard 214, became effective in January 1973, although a number of domestic vehicles complied with the standard earlier.

The current side impact protection standard requires that a subcompact car weighing 1,750 pounds must be able to resist a force of 3,500 pounds in side crushes of 18 inches performed under static test conditions. A 2,500 pound compact car must be able to resist a force of 5,000 pounds, while any car over 3,500 pounds must resist a 7,000 pound force. Thus, as cars get lighter and more in need of side impact protection, the protection becomes poorer.

Based on the need for improved side impact protection and the demonstrated technology to accomplish such an improvement, the Center for Auto Safety petitioned NHTSA to upgrade standard 214 in 1977. In 1979, NHTSA issued a comprehensive evaluation of standard 214 and in December of that year, issued an Advance Notice of Proposed Rulemaking to upgrade the standard. The new standard would have required a 30 mph dynamic side crash with instrumented dummies meeting specified injury criteria, thus making the test more closely resemble real-world crashes. The new standard would also have been extended to apply to light trucks, vans, and multipurpose passenger vehicles.

In July 1982, NHTSA terminated this rulemaking, noting that many complex issues had arisen wihich would require considerable time to resolve. NHTSA said the rulemaking would be reopened "after research and analysis has progressed to the point that appropriate test methods and performance parameters can be developed." This process was expected to take 1 year.

In March 1982, NHTSA embarked on a "coordinated automotive research" effort. This program was oriented toward the establishment of test procedures which could be used to assess side impact crash safety; the program was subsequently expanded to include other research projects. The propriety of this type of cooperative effort was challenged in court by the consumer group Public Citizen; in July 1983, a settlement agreement was signed and NHTSA discontinued its cooperative research program on side impact protection.

NHTSA is continuing to conduct research in this area.

ANTILACERATIVE WINDSHIELDS

Since the 1968 model year, all vehicles sold in the United States have contained High Penetration Resistant windshields which prevent an occupant's head from penetrating the windshield during a collision. Nevertheless, the inner and outer windshield glass does shatter, resulting in more than 300,000 laceration injuries to passenger car occupants each year.

Antilacerative windshields mold a thin layer of a special plastic on the interior surface of the windshield to act as a shield between

occupants and shattered glass. This type of windshield meets all U.S. safety standards except for interior surface scratch resistance.

In April 1981, the Insurance Institute for Highway Safety formally petitioned NHTSA to amend the existing windshield regulation (standard 205) to remove requirements for abrasion resistance on the occupant side of the windshield. Such an amendment would enable manufacturers to install antilacerative windshields in the United States. NHTSA issued an Advance Notice of Proposed Rulemaking on this matter in January 1981. In late 1982, however, NHTSA officals expressed some concern about abrasion occurring on the inside of the windshield and reducing visibility.

Early in 1983, NHTSA permitted General Motors to equip 2,500 automobiles with antilacerative windshields in order to test their durability in use. Later that year, NHTSA amended Standard 205 to permit the use of antilacerative windshields in the United States.

SPLASH AND SPRAY SUPPRESSION DEVICES

The Surface Transportation Assistance Act of 1982 (STAA) required DOT to promulgate a rule to require that trucks tractors, semitrailers, and trailers operating on Interstate highways be equipped with splash and spray suppression devices. The STAA required DOT to issue the final rule by January 1984. Under the provisions of the STAA, new truck tractors, semitrailers, and trailers were to meet the DOT standards by January 1984 and all truck tractors, semitrailers and trailers operating on Interstate highways were to meet the standards by January 1988.

Because of delays in the issuance of the splash and spray regulation, Public Law 98–554 amended the effective date provisions of the STAA. Under Public Law 98–554, new equipment operated on Interstate highways will be required to meet the standards one year after DOT establishes these standards. All equipment operating on Interstate highways must meet the standards 4 years after their establishment.

In April 1985, NHTSA issued a Notice of Proposed Rulemaking to implement this requirement.

HIGH-MOUNTED REAR STOPLAMPS

Each year, there are 3 to 4 million rear-end collisions, resulting in over 2,300 deaths and a cost of more than $18 billion. According to Government tests, high-mounted rear stoplamps have the potential to reduce rear-end collisions by about 50 percent, by making cars more visible. These stoplamps provide a more effective brake warning than the current system to drivers following behind a car.

In 1983, NHTSA issued a regulation amending Federal Motor Vehicle Safety Standard 108 to require manufacturers to install these stoplamps in their new cars.

AUTOMOBILE CRASHWORTHINESS DATA

Title II of the Motor Vehicle Information and Cost Savings Act requires the Secretary to compile information regarding:

1. damage susceptibility of passenger motor vehicles;

2. degree of crashworthiness;
3. characteristics of such vehicles with respect to ease of diagnosis and repair of mechanical and electrical systems; and
4. vehicle operating costs dependent upon the above.

The Secretary is required to furnish this information to the public in a "simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger motor vehicles."

A Notice of Proposed Rulemaking issued in January 1981 would have required manufacturers to print crashworthiness ratings on the windshield of new cars. The proposed program would have provided consumers with information on the safety performance of new cars in the dealer showroom and would have encouraged manufacturers to compete on the basis of vehicle crash safety. However, no subsequent action was taken on this notice.

In 1981, a consumer guide to car buying, *The Car Book,* was published; over 1,250,000 copies were mailed to consumers. NHTSA decided, however, not to print a 1982 edition of this book. (Subsequent editions have been published privately.) Since that time, the release of car crash data has been sporadic.

Since 1979, however, NHTSA has been conducting a new car assessment program, intended to help consumers compare the crashworthiness and safety performance of similarly-sized vehicles. NHTSA has been crash testing 40 motor vehicles in its 1985 program, 30 in 35 mph fixed-barrier tests and 10 in moving-barrier tests.

Another consumer information service, the NHTSA auto safety hotline, was established on a temporary basis in 1975 and was made permanent in 1977. Its primary purpose was to respond to specific questions from consumers about potentially defective cars. In February 1982, NHTSA announced that it was starting an "expanded" hotline to provide more information to the public. This toll-free service furnishes consumers with information about investigations, recalls, fuel economy ratings, crash test results, tire safety and care, child safety seats, drunk driving, odometer fraud, certification of imported motor vehicles, and other topics. In 1983, according to NHTSA, hotline operators logged 219,000 calls, this grew to 240,000 calls in 1984. In the first 2 months of 1985, the monthly average has been 26,500 calls.

Consumers are interested in having this type of information available. A 1981 NHTSA survey of 2,331 recent or prospective new car purchasers found that 78 percent of those surveyed agreed with the statement made by interviewers that they "like the idea of government ratings of things, like safety and maintenance costs." Further, more than 71 percent of the respondents said they would be willing to spend an additional $400 for a safer car.

NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966

The National Traffic and Motor Vehicle Safety Act of 1966 was enacted by Congress to reduce traffic accidents and deaths and injuries to persons resulting from traffic accidents. Congress determined that it is necessary to establish safety standards for motor

vehicles and equipment and to undertake and support necessary safety research and development.

This act requires the Secretary of Transporation (through NHTSA) to take the following actions in prescribing standards under this act:

1. Consider relevant available motor vehicle safety data, including the results of research, development, testing, and evaluation activities conducted pursuant to this act;
2. As appropriate, consult with State or interstate agencies (including legislative committees);
3. Consider whether a proposed standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed; and
4. Consider the extent to which such standards will contribute to carrying out the purposes of this act.

MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

The Motor Vehicle Information and Cost Savings Act was enacted in 1972 and represented a significant effort by Congress to provide consumers with meaningful information to make informed purchasing decisions, to avoid unnecessary damage to their cars, and to foster easy diagnosis and repair of passenger vehicles.

This act contains the following six Titles.

Title I—Bumper standards

Title I has the purpose of reducing the extent of economic loss resulting from damage to passenger motor vehicles involved in motor vehicle accidents by providing for the promulgation and enforcement of bumper standards. Congress directed that bumper standards "seek to obtain the maximum feasible reduction of costs to the public and to the consumer," taking into account costs and benefits of the standard as well as health and safety considerations.

Title II—Automobile consumer information study

Title II requires NHTSA to compile information relating to the damage susceptibility of passenger motor vehicles, the crashworthiness of such vehicles with respect to the ease of diagnosis and repair of mechanical and electrical systems which fail during use or which are damaged in motor vehicle accidents. NHTSA is required to furnish this information to the public "in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger motor vehicles. . .".

Title III—Diagnosis inspection demonstration projects

Title III requires NHTSA to establish motor vehicle diagnostic inspection demonstration projects. These projects have been concluded and the data have been analyzed.

Title IV—Odometer requirements

Title IV notes the importance of an accurate indication of the mileage travelled by a motor vehicle, as it assists the purchaser in

determining the safety and reliability of a vehicle. The purpose of this title is therefore to prohibit tampering with odometers on motor vehicles and to establish certain safeguards for the protection of purchasers with respect to the sale of motor vehicles having altered or reset odometers.

Title V—Improving automotive efficiency

Title V sets fuel economy standards for model years 1978–80 and for model year 1985 and thereafter, and directs the Secretary to establish standards for model years 1981–84. NHTSA does not believe any authorization is needed for this program.

Title VI—Theft prevention

Title VI, added by Public Law 98–547, requires the Secretary to promulgate a motor vehicle theft prevention standard. This standard is intended to prevent and discourage motor vehicle theft and the sale and distribution of used parts removed from stolen vehicles and to help reduce the cost of premiums charged consumers for motor vehicle theft insurance. NHTSA does not believe any specific authorization is needed for this program.

Legislative History

On February 21, 1985, the Commerce Committee conducted a hearing on oversight of the NHTSA and means of improving highway safety. Testimony was presented by the Administrator of NHTSA, Pennsylvania State Senator Vincent Fumo, representatives of consumer and highway safety organizations, spokespersons for automobile manufacturers and dealers, and representatives of the direct import automobile industry.

On April 18, the Committee considered S. 863 in executive session. The Committee accepted, by a voice vote, an amendment in the nature of a substitute to S. 863. The Committee also accepted, by a voice vote, an amendment to restrict the importation of motor vehicles which do not meet U.S. safety standards. On April 18, the Committee ordered reported S. 863, as amended, by a voice vote.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office.

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 2, 1985.

Hon. John C. Danforth,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 863, the National Highway Traffic Safety Administration Authorization Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill Number: S. 863.

2. Bill title: National Highway Traffic Safety Administration Authorization Act of 1985.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation, April 18, 1985.

4. Bill purpose: This bill authorizes the appropriation of $54.6 million for operations and research activities of the National Highway Traffic Safety Administration (NHTSA) for fiscal year 1986, and $57 million for fiscal year 1987. (The President has requested $54.7 million for 1986, and the 1985 appropriation to date is $58.5 million.) The bill also provides $132 million in direct spending from the Highway Trust Fund for fiscal year 1987 for NHTSA "402" highway traffic safety grants and $29.2 million for "408" incentive grants to states for alcohol safety programs. The authorization for highway traffic safety grants' identical to the 1986 authorization enacted by the Surface Transportation Assistance Act and amended by Public Law 98-363. The Alcohol Traffic Safety Program Act of 1982 authorized $50 million for fiscal year 1985 for the "408" grants, but there is no authorization for 1986. NHTSA estimates that it can fund its proposed $28.8 million alcohol safety program for 1986 from unobligated balances.

The bill also authorizes a total of $20 million for a national program to encourage the use of safety belts in automobiles. The program would be funded by tranferring unobligated balances from several highway safety programs, including the NHTSA highway safety education and information program, and by using funds for NHTSA operations and research activities. S. 863 also directs the Secretary of Transportation to develop regulations related to side impact protection and automobile crashworthiness rating requirements. It also amends existing legislation to make it more difficult to import foreign automobiles that do not comply with federal motor vehicle safety standards.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1986	1987	1988	1989	1990
Spending from General Funds:					
Authorization Level	54.6	57.0			
Estimated Outlays	35.5	50.5	19.7	5.9	
Spending from the Highway Trust Fund:					
Budget Authority		161.2			
Estimated Outlays		32.2	40.3	40.3	32.2

No budget impact is included in the above table for the $20 million seat belt program, because $17 million has already been appropriated and is available until expended. An additional $3 million is expected to come from the 1986 appropriation for the trust fund

share of operations and research, which is not authorized in this bill.

The costs of this bill fall within budget function 400.

Basis of estimate: We assume that the full amounts authorized by the bill will be approriated prior to the beginning of the fiscal year. All estimates of outlays are based on historical spending rates. The requirement to promulgate regulations on side impact protection and automobile crashworthiness rating and labeling is not expected to result in significant costs to the agency, because the research efforts are largely completed.

6. Estimated cost to State and local governments: There are no matching funds required for either the "402" or "408" grants. The NHTSA "402" grants are apportioned to states on the basis of population and public road mileage, and are used to carry out their highway safety programs. All States are required to develop safety programs that must be approved annually by the Secretary of Transportation before they can receive their apportionment. The "408" alcohol safety incentive grants program offers additional funds to states, based on their 1983 "402" apportionment, if they meet certain requirements, such as mandatory sentences for driving while intoxicated. NHTSA estimates that 27 states will be qualified for "408" grants by the end of 1985, and that 11 more will qualify in 1986.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Kathleen Kelly.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation:

NUMBER OF PERSONS COVERED

Title I and II of S. 863, as reported, continue existing programs under the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act. Thus, the number of persons covered should be consistent with current levels.

Title III of S. 863 modifies and upgrades the existing Federal Motor Vehicle Safety Standard concerning side impact crash protection. Title III also requires NHTSA to establish an automobile crashworthiness rating system. The vehicles covered by the requirements of Title III currently are subject to a number of Federal Motor Vehicle Safety Standards; therefore, the number of persons covered should be consistent with current levels.

Title IV prohibits the importation of automobiles which do not meet U.S. safety standards, except in certain specified instances. This provision will affect the persons who import and modify the roughly 45,000 cars imported annually which are modified after import to meet U.S. safety standards.

ECONOMIC IMPACT

Section 101 of S. 863 authorizes funding of $51,825,000 in fiscal year 1986 and $54,157,125 in fiscal year 1987 for NHTSA programs carried out pursuant to the National Traffic and Motor Vehicle Safety Act of 1966. These levels represent a decrease from the $58,700,000 funding level authorized for fiscal year 1985. The moderate increase in funding between fiscal years 1986 and 1987 is designed to compensate for general projected increases in the cost of living. This funding will be used to conduct auto safety research, provide consumer information, conduct defect and noncompliance testing, promulgate safety standards, and enforce provisions of the act. These activities are not expected to have an inflationary impact on the Nation's economy.

Section 101 also authorizes appropriations of $2,749,000 for fiscal 1986 and $2,872,705 for fiscal 1987 to fund various programs under the Motor Vehicle Information and Cost Savings Act. This funding will be used to evaluate cost savings to consumers attributable to damage-resistant bumpers, improve consumer access to cost saving information related to motor vehicle crashworthiness and repairability, and generally protect consumers from odometer fraud. Because of the possible consumer savings from these programs, it is conceivable that these efforts could have a deflationary impact on the national economy.

Section 102 authorizes DOT to reprogram $20 million from previously appropriated but unobligated funds to carry out a national program to encourage the use of seat belts and passive restraints in automobiles. As the funds used for this program already have been appropriated, this reprogramming authority should not have an inflationary impact on the Nation's economy.

Section 201 authorizes an appropriation of $132 million from the Highway Trust Fund for State and community highway safety grants in fiscal year 1987. This funding level is identical to the fiscal year 1986 authorization contained in Public Law 98-363 and therefore should not have an inflationary impact.

Section 202 authorizes an appropriation of $29,232,000 from the Highway Trust Fund in fiscal year 1987 for drunk driving incentive grants to States. No authorization is provided for fiscal year 1986; according to NHTSA, sufficient previously-appropriated funds exist to meet this program's needs during fiscal year 1986. This fiscal year 1987 authorization is substantially below the fiscal year 1985 authorization of $50 million provided in Public Law 97-364 and is only slightly higher than expected expenditures of $28,800,000 in each of fiscal years 1985 and 1986 for this program. The fiscal year 1987 funding level is modest and is not expected to have an inflationary impact on the Nation's economy.

Section 302 requires NHTSA to upgrade and extend the applicability of its side impact crash protection standard. Section 303 requires NHTSA to promulgate an automobile crashworthiness rating system. Costs incurred by manufacturers in upgrading side impact protection and in conducting crash tests are expected to be passed on to consumers. The Committee also expects, however, that because of the high volume of cars involved, any increases in the purchase price of a car will be minimal. Any such price increases

are expected to be offset by consumer savings for such items as repairs, insurance, and health care costs. The Government also will receive a net savings from safer automobiles.

Title IV would restrict substantially the import of cars into this country which do not meet U.S. safety standards. In 1984, approximately 45,000 such cars were imported into the United States. The modifiers who upgrade these cars to meet U.S. safety and emissions standards will no longer be able to engage in such activity to any great degree. Title IV, however, is not expected to have an inflationary impact on the Nation's economy.

PRIVACY

S. 863 will not have any adverse impact on the personal privacy of the individuals affected.

PAPERWORK

Sections 302 and 303 require DOT to conduct rulemaking activities regarding side impact crash protection and automobile crashworthiness, respectively. Section 303 also requires DOT to prepare a booklet for purposes of disseminating comparative information regarding the crashworthiness of passenger cars. DOT is required to make copies of this booklet available to automobile manufacturers for distribution to automobile dealers. The Motor Vehicle Information and Cost Savings Act requires NHTSA to disseminate information to the public regarding vehicle safety. This provision of S. 863 should not result in a significant paperwork increase to automobile manufacturers or the agency.

Title IV will prohibit the import of cars into the United States which do not meet U.S. safety standards. Under current law, these cars must be modified in the United States to meet these standards. This provision will greatly reduce the paperwork associated with the modification procedure because modification activities will be substantially curtailed.

S. 863 as reported does not impose any additional reporting requirements.

Section-By-Section Analysis

SECTION 1—SHORT TITLE

The first section states the short title of the legislation, the "National Highway Traffic Safety Administration Authorization Act of 1985".

SECTION 2—DEFINITIONS

Section 2 of the bill defines certain terms used throughout S. 863.

"Multipurpose passenger vehicle" is defined as a motor vehicle with motive power, other than a trailer, designed to carry 10 persons or less and constructed either on a truck chassis or with special features for occasional off-road operation.

"Passenger automobile" is defined as a motor vehicle with motive power, excluding multipurpose passenger vehicles, motorcy-

cles, buses, trucks, or trailers designed for carrying 10 persons or less.

"Secretary" is defined as the Secretary of Transportation.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SECTION 101—GENERAL AUTHORIZATIONS

Subsection (a) amends the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations of $51,825,000 for fiscal year 1986 and $54,157,125 for fiscal year 1987 for NHTSA's highway safety programs.

Subsection (b) amends section 111 of the Motor Vehicle Information and Cost Savings Act to authorize appropriations of $331,000 for fiscal year 1986 and $345,895 for fiscal year 1987 to enable NHTSA to carry out its responsibilities regarding establishment and evaluation of automobile bumper standards.

Subsection (c) amends section 209 of the Motor Vehicle Information and Cost Savings Act to authorize appropriations of $1,943,000 for fiscal year 1986 and $2,030,435 for fiscal year 1987 to carry out NHTSA's programs to compile and provide information to the public on the safety of various makes and models of passenger motor vehicles.

Subsection (d) amends section 417 of the Motor Vehicle Information and Cost Savings Act to authorize appropriations of $475,000 for fiscal year 1986 and $496,375 for fiscal year 1987 to enable NHTSA to carry out its responsibilities in preventing odometer fraud.

SECTION 102—OCCUPANT CRASH PROTECTION PROGRAM

This section authorizes the Secretary of Transportation to reprogram up to $20 million of previously appropriated but currently unobligated balances of funds made available for highway safety programs under title 23, United States Code. These reprogrammed funds will be used to carry out a national program to encourage the use of seat belts and passive restraints. (Transportation Secretary Elizabeth Dole announced the creation of this 4-year, $80 million education effort as part of DOT's July 1984 occupant crash protection standard.) This section provides, however, that half of these reprogrammed funds are to be used for education efforts related to air bags. Of the funds allocated for air bag education, $5 million are to be used for an air bag demonstration program.

NHTSA currently is funding two major air bag programs. In March 1984, the Breed Corporation entered into a contract with NHTSA to demonstrate the Breed Compact Airbag, which is a completely mechanical, self-contained system. Breed has been conducting crash tests, with excellent results.

The Breed Corporation estimates that a 12-month program costing $5 million would be needed in order to prepare the Breed Compact Airbag for full driver-side production and installation; under such a program 10,000 driver-side units could be produced & installed. Upon completion of such a program, Breed would have volume tooling in place that would bring the retail cost of the driver-side Breed Compact Airbag to about $290 per unit. At pro-

duction of 1 million units, the retail cost of the driver side system is expected to drop to $50.

The second program is being undertaken by Romeo Kojyo Co., In., under a contract with NHTSA. As of late March 1985, this company had installed 450 of its Driver Supplemental Protection (DSP) Airbags in police cars across the country. As of late March, there had been 15 accidents severe enough to deploy the air bag. According to Romeo Kojyo and the NHTSA reports on these accidents, none of the drivers, belted or unbelted, were seriously injured.

Romeo Kojyo estimates that it can retrofit 1,000 cars with its DSP Airbag for approximately $750,000.

TITLE II—HIGHWAY SAFETY GRANTS

SECTION 201—AUTHORIZATION OF APPROPRIATIONS

This section authorizes an appropriation of $132,000,000 for fiscal year 1987 for State and community highway safety grants. This authorization level is identical to that for fiscal year 1986, which is contained in Public Law 98-363.

SECTION 202—DRUNK DRIVING INCENTIVE GRANTS

This section authorizes an appropriation of $29232,000 for fiscal year 1987 for drunk driving incentive grants to States; this program was instituted under Public Law 97-364. According to NHTSA, sufficient funding is available from previous appropriations to cover the anticipated program needs of $28,800,000 for fiscal year 1986; therefore, no fiscal year 1986 authorization is included in this legislation.

TITLE III—AUTOMOBILE CRASHWORTHINESS

SECTION 301—PURPOSE AND FINDINGS

Subsection (a) states that this title is part of the continuing effort by Congress to address the critical highway safety problems facing this Nation.

Subsection (b) states that DOT should be given explicit direction as to actions to be taken to save lives, reduce injuries, and decrease consumer costs of accidents; that effective occupant crash protection is needed; and that crashworthiness information should be available upon the introduction of new car models.

SECTION 302—SIDE IMPACT PROTECTION

More than 9,000 Americans die each year in side impact crashes and approximately 20,000 suffer serious, nonfatal injuries. Seventy-one percent of the life-threatening automobile injuries occur in side crashes. The current side impact standard is effective in preventing death and serious injury in single-vehicle crashes where about 30 percent of the life-threatening injuries occur, but it is not effective in the 70 percent involving vehicle-to-vehicle crashes.

Research in the mid-to-late 1970's demonstrated that side impact crashworthiness of cars could be significantly improved with

known technology. DOT's Research Safety Vehicle (RSV) program clearly showed that survivable side impact velocities could be increased from about 12 mph to over 30 mph for subcompact vehicles. For example, Calspan's RSV work found that addition of reinforcements, increased sheet metal gauge, and substitution of high-strength low alloy steel for mild steel in a 2,600 pound car would provide occupant protection in 40 to 45 mph side impacts. Both Minicars Corp. and Calspun found that filling side panels and doors with foam would reduce side impact intrusion to less than 6 inches in 30 mph or greater side impacts.

Subsection (a) requires NHTSA to reopen its rulemaking to upgrade its Side Impact Crash Protection Standard, No. 214. (This rulemaking was terminated by NHTSA on July 12, 1982.) This subsection directs DOT to establish performance criteria for improved side impact occupant protection and to extend the applicability of standard 214 to light trucks, vans, and multipurpose passenger vehicles.

Subsection (b) requires DOT to issue the final regulations implementing the new standard 214 within 1 year of enactment.

SECTION 303—AUTOMOBILE CRASHWORTHINESS DATA

Subsection (a) amends title I of the National Traffic and Motor Vehicle Safety Act by adding a section 126. This section requires DOT to promulgate a safety standard establishing passenger car crashworthiness and labeling requirements for cars manufactured on or after September 1, 1986. DOT is also required to prepare a booklet regarding automobile crashworthiness and other pertinent information. DOT shall furnish copies of this booklet to manufacturers for distribution to car dealers.

This safety standard is to provide a method for calculating a uniform numerical crashworthiness rating. Automobile manufacturers will be required to certify each model's crashworthiness to the Secretary and to affix a label to each car indicating that model's crashworthiness rating. This labeling and certification will be based on performance criteria established by the Secretary related to: crash protection for occupants with and without manual seat belts; windshield mounting; windshield zone intrusion; fuel system integrity; and other aspects affecting crashworthiness, as considered appropriate by the Secretary.

Subsection (b) amends section 201 of the Motor Vehicle Information and Cost Savings Act to direct DOT to establish procedures requiring automobile dealers to make available to prospective car purchasers the crashworthiness information developed by DOT. The Committee expects that, in addition to the labels attached to each car, the more detailed comparative crashworthiness information will be readily available in dealer showrooms.

TITLE IV—GRAY MARKET AUTOMOBILES

SECTION 401—AMENDMENTS TO THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966

A problem of increasing importance in the United States is the importation of cars which are not designed for the U.S. driving en-

vironment and this country's safety, emissions, and fuel economy regulations.

Current regulation covering the importation of vehicles by individuals who intend to have foreign products upgraded to U.S. specifications was developed over a decade ago to alleviate hardships for U.S. military and foreign service personnel returning to the United States from Europe with cars purchased overseas. Since the mid-1960's, these special importation provisions have become a loophole through which entrepreneurs, operating outside of the importing and distributing companies of manufacturers, have created a "gray market" for importing vehicles into the United States which do not meet U.S. safety and emissions standards. These vehicles are then supposed to be upgraded to meet these standards.

Testimony presented to the Commerce Committee in February 1985 indicated that a large number of cars, perhaps as many as 99 percent, are not brought into complete conformance with all applicable U.S. standards. NHTSA and the Environmental Protection Agency lack the resources to ensure the total compliance of every "gray market" car.

Section 401 amends the National Traffic and Motor Vehicle Safety Act of 1966. This section prohibits the importation into the United States of motor vehicles or motor vehicle equipment that do not meet U.S. safety standards, except in the following cases:

1. when the Secretary of Transportation finds that the vehicles or equipment are needed for research, demonstrations, training, competitive racing events, or for reasons of national security;

2. when the Secretaries of Transportation and Treasury authorize temporary importation of such vehicles or equipment upon conditions appropriate to ensure that the vehicle or equipment will be exported from or abandoned to the United States;

3. when an individual who has never before imported a nonconforming vehicle or piece of equipment imports such an item for personal use—this applies only to cases of extreme hardship or unforeseen extraordinary circumstances and the vehicle or piece of equipment must be brought into conformity with Federal safety standards; and

4. when an incomplete vehicle or item of equipment is accompanied by a statement by the manufacturer indicating the Federal safety standards with which the item is in compliance.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

The National Traffic and Motor Vehicle Safety Act of 1966

Section 102 of that Act

Sec. 102. As used in this title—

(1) - (4) * * *

(5) "Manufacturer" means any person engaged in the manufacturing or assembling of motor vehicles or motor vehicle equipment, [including any person importing motor vehicles or motor vehicle equipment for resale.] *or who has express written authorization of any such person to import such motor vehicles or motor vehicle equipment for resale.*

(6) - (15) * * *

Section 108 of that Act

SEC. 108. (a)(1) No person shall—

(A) manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or item of motor vehicle equipment manufactured on or after the date any applicable Federal motor vehicle safety standard takes effect under this title unless it is in conformity with such standard and is covered by a certification issued by the manufacturer under section 114, except as provided in subsection (b) of this section;

(B)—(F) * * *

(2) * * *

(b)(1) * * *

(2) Paragraph (1)(A) of subsection (a) shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that such vehicle or item of motor vehicle equipment is not in conformity with applicable Federal motor vehicle safety standards, or to any person who, prior to such first purchase, holds a certificate issued by the manufacturer [or importer] of such motor vehicle or motor vehicle equipment, to the effect that such vehicle or equipment conforms to all applicable Federal motor vehicle safety standards, unless such person knows that such vehicle or equipment does not so conform.

[(3) A motor vehicle or item of motor vehicle equipment offered for importation in violation of paragraph (1)(A) of subsection (a) shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary; except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of such motor vehicle or item of motor vehicle equipment into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such motor vehicle or item of motor vehicle equipment will be brought into conformity with any applicable Federal motor vehicle safety standard prescribed under this title, or will be exported or abandoned to the United States.]

(3) a motor vehicle or item of motor vehicle equipment offered for importation in violation of paragraph (1)(A) of subsection (a) shall be refused admission into the United States, except under any of the following circumstances;

(A) The Secretary may exempt any motor vehicle or item of motor vehicle equipment from the prohibition against

importation in such paragraph upon such terms and conditions as the Secretary finds necessary for the purpose of research, investigations, studies, demonstrations or training, competitive racing events, or for reasons of national security.

(B) The Secretary of the Treasury and the Secretary may, by joint regulations, authorize the temporary importation into the United States of a motor vehicle or item of motor vehicle equipment upon such terms and conditions (including the furnishing of bond) as may appear to the Secretary of the Treasury and the Secretary to be appropriate to ensure that any such motor vehicle or item of motor vehicle equipment will be exported from or abandoned to the United States.

(C) The Secretary of the Treasury and the Secretary may, by joint regulations, authorize importation into the United States of a motor vehicle or item of motor vehicle equipment where an individual, who has never before imported a nonconforming motor vehicle or item of motor vehicle equipment, seeks to import such a motor vehicle or item of motor vehicle equipment for personal use and not for resale and demonstrates that such importation is necessary to meet unforeseen cases of extreme hardship or unforeseen extraordinary cricumstances. In any such case, the motor vehicle or item of motor vehicle equipment may be imported into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to the Secretary of the Treasury and the Secretary to be appropriate to ensure that any such motor vehicle or item of motor vehicle equipment will be brought into conformity with applicable Federal motor vehicle safety standards prescribed under this subchapter.

(D) An incomplete motor vehicle or incomplete item of motor vehicle equipment (as defined by the Secretary) shall not be refused admission into the United States where such motor vehicle or item of motor vehicle equipment is accompanied at the time of importation by a statement issued by the person who first manufactures or assembles the incomplete vehicle or incomplete item of equipment, indicating the Federal motor vehicle safety standards in effect at the time of manufacture with which such incomplete vehicle or item of equipment is in compliance. The Secretary shall prescribe the form and contents of such statement.

[(4) The Secretary of the Treasury and the Secretary may, by joint regulations, permit the temporary importation of any motor vehicle or item of motor vehicle equipment after the first purchase of it in good faith for purposes other than resale.]

[(5)] *(4)* Paragraph (1)(A) of subsection (a) shall not apply in the case of a motor vehicle or item of motor vehicle equipment intended solely for export, and so labeled or tagged on the vehicle or item itself and on the outside of the container, if any, which is exported.

(c) * * *

Section 114 of that Act

SEC. 114. Every manufacturer or distributor of a motor vehicle or motor vehicle equipment shall furnish to the distributor or dealer, *as appropriate,* at the time of delivery of such vehicle or equipment by such manufacturer [or distributor] the certification that each such vehicle or item of motor vehicle equipment conforms to all applicable Federal motor vehicle safety standards. *Every distributor of a motor vehicle or motor vehicle equipment shall furnish to a dealer, at the time of delivery of such vehicle or equipment, a certification which was previously furnished to the distributor by the manufacturer.* In the case of an item of motor vehicle equipment such certification may be in the form of a label or tag on such item or on the outside of a container in which such item is delivered. In the case of a motor vehicle such certification shall be in the form of a label or tag permanently affixed to such motor vehicle.

Section 121 of that Act

SEC. 121. There are authorized to be appropriated for the purpose of carrying out this Act, $51,400,000 for fiscal year 1983, $55,000,000 for fiscal year 1984, [and] $58,700,000 for fiscal year 1985[.], *$51,825,000 for fiscal year 1986, and $54,157,125 for fiscal year 1987.*

Section 125 of that Act

SEC. 125. * * *

Sec. 126. (a) Not later than 60 days after the date of enactment of this section, the Secretary shall promulgate a Federal motor vehicle safety standard establishing passenger automobile crashworthines rating and labeling requirements in accordance with this section. Such amendment shall take effect not later than 120 days after such date of enactment, and shall apply to passenger automobiles manufactured on or after September 1, 1986.

(b) The standard required in subsection (a) of this section shall provide a method for calculating a uniform numerical rating which will enable consumers to compare the crashworthiness of different passenger automobile models.

(c) (1) The the standard required in subsection (a) of this section shall also require that—

(A) each passenger automobile manufacturer certify to the Secretary, not later than 90 days before and passenger automobile model produced by such manufacturer is offered for sale to consumers, the crashworthiness rating achieved by that model;

(B) each passenger automobile manufacturer affix a label to each passenger automobile indicating that model's crashworthiness rating; and

(C) the Secretary prepare a booklet for purposes of disseminating comparative information regarding the crashworthiness of passenger automobiles.

(2) The Secretary may include in the booklet to be prepared pursuant to paragraph (1)(C) of this subsection such other information relating to the purchase and ownership of passenger automobiles as the Secretary determines may be useful to consumers. Copies of such

booklet shall be furnished by the Secretary to passenger automobile manufacturers for distribution to passenger automobile dealers.

(d) the labeling and certification required under this section shall be based upon performance criteria established by the Secretary relating to—

(1) crash protection for occupants with and without manual seatbelts;

(2) windshield mounting;

(3) windshield zone intrusion;

(4) fuel system integrity; and

(5) such other aspects affecting crashworthiness as the Secretary may consider appropriate.

THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

Section 2 of that Act

DEFINITIONS

SEC. 2. For the purpose of this Act (except title V):

(1)—(18) * * *

(19)(A) The term "passenger automobile" means a motor vehicle with motive power, except that the term does not include a multipurpose passenger vechicle, a motorcycle, a bus, a truck, or a trailer designed for carrying 10 persons or less.

(B) As used in subparagraph (A) of this paragraph, the term "multipurpose passenger vehicle" means a motor vehicle with motive power, other than a trailer, which is designed to carry 10 persons or less and which is constructed either on a truck chassis or with special features for occasional off-road operation.

Section 111 of that Act

AUTHORIZATION OF APPROPRIATIONS

SEC. 111. There are authorized to be appropriated to carry out this title *$331.000, for fiscal year 1986, and $345,895 for fiscal year 1987.* $320,000 for fiscal year 1983, $343,000 for fiscal year 1984. [and] $365,000 for fiscal year 1985[.]

Section 201 of that Act

CONSUMER INFORMATION

SEC. 201. (a)—(e) * * *

(f) Not later than 1 year after the date of enactment of the National Highway Traffic Safety Administration Authorization Act of 1985, the Secretary shall by rule establish procedures requiring passenger automobile dealers to make available to prospective passenger automobile purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of passenger automobiles.

Section 209 of that Act

AUTHORIZATION OF APPROPRIATIONS

SEC. 209. There are authorized to be appropriated to carry out this title $1,677,000 for fiscal year 1983, $1,800,000 for fiscal year 1984, [and] $1,950,000 for fiscal year 1985[.] , *$1,943,000 for fiscal year 1986, and $2,030,435 for fiscal year 1987.*

Section 417 of that Act

AUTHORIZATION OF APPROPRIATIONS

SEC. 417. There are authorized to be appropriated to carry out this title $183,000 for fiscal year 1983, $196,000 for fiscal year 1984, [and] $210,000 for fiscal year 1985[.] , *$475,000 for fiscal year 1986, and $496,375 for fiscal year 1987.*

THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Section 203 of that Act

SEC. 203. (a)(1) There is hereby authorized to be appropriated for carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund (other than the Mass Transit Account), $126,500,000 for the fiscal year ending September 30, 1985, [and] $132,000,000 for the fiscal year ending September 30, 1986, *and $132,000,000 for the fiscal year ending September 30, 1987.*

(2)–(4) * * *

(b) Notwithstanding any other provision of law, the total of all obligations for highway safety programs carried out by the National Highway Traffic Safety Administration under section 402 of title 23, United States Code, shall not exceed $126,500,000 for the fiscal year ending September 30, 1985, [and] $132,000,000 for the fiscal year ending September 30, 1986, *and $132,000,000 for the fiscal year ending September 30, 1987,* and the total of all obligations for highway safety programs carried out by the Federal Highway Administration under section 402 of title 23, United States Code, shall not exceed $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, [and] September 30, 1986, *and September 30, 1987.*

(c)–(d) * * *

TITLE 23, UNITED STATES CODE

Section 408 of that title

SEC. 408. Alcohol traffic safety programs

(a)–(f) * * *

(g) There is hereby authorized to be appropriated to carry out this section, out of the Highway Trust Fund, [$25,000,000 for the fiscal year ending September 30, 1983, and $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, and September 30, 1985.] *$29,232,000 for the fiscal year ending September 30, 1987.* All provisions of chapter 1 of

this title that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section. Sums authorized by this subsection shall not be subject to any obligation limitation for State and community highway safety programs.

ADDITIONAL VIEWS OF MR. DANFORTH

The National Highway Traffic Safety Administration (NHTSA) has been charged with the responsibility of saving lives and preventing injuries on our Nation's highways. This is indeed an important mission. Last year, approximately 43,800 Americans died in highway accidents. S. 863, as reported, provides continued funding authorizations for NHTSA's various safety and consumer information programs in fiscal years 1986 and 1987. I have been encouraged by NHTSA's positive actions in the last two years. I am hopeful that NHTSA will use these funds to promote highway safety effectively and aggressively.

S. 863 also requires NHTSA to upgrade and expand the side impact protection standard and to establish an automobile crashworthiness rating system. These activities are essential in our efforts to improve the safety of motor vehicles themselves as well as to make safety an even more important marketplace consideration in new car purchases.

Another issue with which NHTSA is involved concerns the direct import of automobiles, the so-called "gray market". During the Commerce Committee's consideration of S. 863, an amendment to restrict substantially these direct imports was offered and approved. I share the concerns of the amendment's sponsors about the safety problems associated with the direct import industry. However, I voted against this amendment because I believe it is overly broad and tends to be anticompetitive.

Clearly, action must be taken to ensure that cars operating in the U.S. meet our safety standards. Based on testimony presented in February to the Commerce Committee, it is evident that there are many legitimate modifiers who indeed upgrade the cars in accordance with U.S. standards. The process associated with direct automobile imports needs to be improved and streamlined, especially with regard to paperwork. Even more important, we must take steps better to ensure that cars meet U.S. safety standards. I am hoping to find a way to accomplish these goals without taking the drastic action that would be required by this amendment.

JOHN C. DANFORTH.

Calendar No. 138

99TH CONGRESS
1st Session

SENATE

REPORT
99-60

CONSUMER PRODUCT SAFETY COMMISSION AUTHORIZATION

MAY 16 (legislative day, APRIL 15), 1985.—Ordered to be printed

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Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1077]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1077) to amend the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) to provide authorization of appropriations, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

PURPOSE OF BILL

The Consumer Product Safety Commission Authorization Act of 1985 would authorize appropriations of $35 million per year for the activities of the Consumer Product Safety Commission (CPSC) for fiscal years 1986 and 1987. The bill also makes two amendments to the Consumer Product Safety Act to expedite Commission procedures.

BACKGROUND AND NEEDS

Congress created the CPSC in 1972 as an independent agency with a mandate to protect the public from unreasonable risks of death and injury associated with consumer products. Under the Consumer Product Safety Act (15 U.S.C. 2051 et seq.), the Commission has authority to set uniform safety standards for consumer products, ban products entirely from the marketplace when standards would be inadequate to protect the public, require product recalls, and engage in product safety research and public education activities. The CPSC also enforces the Federal Hazardous Sub-

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stances Act (15 U.S.C. 1261 et seq.), the Poison Prevention Packaging Act (15 U.S.C. 1471 et seq.), and the Refrigerator Safety Act (15 U.S.C. 1211 et seq.).

The Consumer Product Safety Amendments of 1981, enacted as part of budget reconciliation legislation (Public Law 97-35), reauthorized the CPSC for fiscal years 1982 and 1983 and made significant changes in the agency's mandate. The 1981 amendments included provisions to improve the CPSC's exercise of its authority to promulgate product safety standards and bans, to give greater protection from public disclosure for confidential business information and unverified product hazard information, and to establish Chronic Hazardous Advisory Panels to advise the CPSC in regulating consumer products posing hazards of cancer, birth defects, and gene mutations. This authorization for the CPSC expired at the end of fiscal 1983 and there has been no formal authorization since then.

In the 98th Congress, the Commerce Committee favorably reported S. 861, the Consumer Product Safety Commission Authorization Act of 1983. This legislation authorized appropriations of $35 million each year for fiscal years 1984 and 1985. As reported by the Commerce Committee, this bill also would have amended the Consumer Product Safety Act and the Flammable Fabrics Act. The Senate passed S. 861 by unanimous consent on June 16, 1983 after two provisions were dropped and a congressional veto provision was added.

S. 1077, as reported, authorizes appropriations of up to $35 million for fiscal years 1986 and 1987. The CPSC appropriation for fiscal year 1985 is $36 million. The Commission originally requested $37,500,000 for fiscal year 1986, but that request was later reduced to $33,700,000. The $33,700,000 request included a 5-percent pay cut for all CPSC employees. The Commission has estimated that the pay cut accounted for savings of $1,300,000.

Legislative History

Senator Kasten introduced S. 1077, the Consumer Product Safety Commission Authorization Act on May 6, 1985.

A hearing on reauthorization of the CPSC was conducted by the Consumer Subcommittee on May 1, 1985. Witnesses included CPSC Chairman Terry Scanlon and Commissioners Carol Dawson and Stuart Statler. The subcommittee also conducted a hearing on reauthorizing the CPSC during the 98th Congress (Serial No. 98-10). The Committee ordered the bill reported favorably on May 9, 1985, by a voice vote.

During the 98th Congress, the Committee considered and favorably reported S. 861, the Consumer Product Safety Commission authorization Act of 1983 (S. Rept. No. 98-57). The Senate passed S. 861, with floor amendments, by unaniomus consent. The House passed S. 861, amended with the text of H.R. 2668 and two different legislative veto mechanisms, on June 29, 1983. The 98th Congress adjourned without formation of a House-Senate conference committee to resolve differences in the House- and Senate-passed bills.

Summary of Major Provisions

The Consumer Product Safety Commission Reauthorization Act of 1985 authorizes appropriations of $35 million for fiscal years 1986 and 1987. The bill also clarifies the Commission's authority to disclose information about product hazards to CPSC contractors when necessary and relaxes the conflict-of-interest restrictions on members of the CPSC's chronic hazard advisory panels. Both clarifying provisions were included in S. 861, the 1983 CPSC authorization bill, as passed by the Senate in June 1983.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 14, 1985.

Hon. John C. Danforth,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 1077, the Consumer Product Safety Commission Authorization Act of 1985, as ordered reported by the Senate Committee on Commerce, Science and Transportation on May 9, 1985.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

Rudolph G. Penner, *Director.*

Congressional Budget Office Cost Estimate

1. Bill number: S. 1077.
2. Bill title: Consumer Product Safety Commission Authorization Act of 1985.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation on May 9, 1985.
4. Bill purpose: To amend the Consumer Product Safety Act to provide authorization of appropriations, and for other purposes.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1986	1987	1988	1989	1990
Authorization level	35.0	35.0			
Estimated outlays	33.3	35.0	1.7		

The costs of this bill fall within function 550.

Basis for estimate: The authorization level for the Consumer Product Safety Commission (CPSC) is stated in the bill. We assume authorized amounts are fully appropriated at the beginning of each fiscal year. Outlays are estimated using spendout rates computed by CBO on the basis of recent program data.

This bill would reauthorize the CPSC for fiscal years 1986 and 1987 at $35 million in each year. The bill would also make technical clarifications to the Commission's confidential information disclosure policy and to the Chronic Hazard Advisory Panel's policy on conflict of interest. No cost is expected to result from these technical changes.

6. Estimated cost to State and local governments: The budgets of state and local governments will not be affected directly by the enactment of this bill.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Carmela Pena.

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation:

NUMBER OF PERSONS COVERED

This legislation authorizes appropriations for the CPSC for fiscal years 1986 and 1987 and makes two changes in the Consumer Product Safety Act. Because this legislation reauthorizes an existing agency and the Consumer Product Safety Act amendments are administrative in nature, the number of persons covered should be consistent with current levels.

ECONOMIC IMPACT

Section 4 of S. 1077 authorizes appropriations for the CPSC of $35 million for fiscal years 1986 and 1987. These funding levels are less than the CPSC's fiscal year 1985 appropriation of $36 million and are not expected to have an inflationary impact on the Nation's economy.

PRIVACY

Section 2 of S. 1077 clarifies the CPSC's authority to disclose confidential information concerning products hazards to contracts of the Commission. This change is unlikely to compromise the confidentiality of such information because CPSC contractors are subject to the same restrictions on any subsequent public disclosure of information as apply to CPSC officers and employees. (See 15 U.S.C. 2055(d)(2).)

PAPERWORK

No additional paperwork requirements should result from enactment of this legislation.

SECTION-BY-SECTION ANALYSIS

SECTION 1.—SHORT TITLE

This section contains the short title of S. 1077, the "Consumer Product Safety Commission Authorization Act of 1985".

SECTION 2.—DISCLOSURE TO CONTRACTORS

Subsections (a)(2) through (a)(6) of section 6 of the Consumer Product Safety Act (15 U.S.C. 2055(a) (2)–(6)) provide substantive and procedural protections for trade secrets and certain other confidential business information reported to or otherwise obtained by the CPSC. Under section 6(a)(2), such business information shall be considered confidential and shall not be disclosed. Subsections (a)(3) through (a)(6) further provide that when a manufacturer or private labeler designates information as confidential, the CPSC, if it determines that the information is not confidential, may not disclose the information until the CPSC has both notified the manufacturer or private labeler of the CPSC's intent to disclose the information and given the manufacturer or private labeler not less than 10 days from the date of the receipt of the notification to bring an action in U.S. district court to restrain disclosure of the information.

Section 6(a)(8) provides that subsections (a)(2) through (a)(6) of section 6 do not prohibit the disclosure of information to "officers or employees" of the CPSC. The CPSC has expressed concern that section 6(a)(8) of the Consumer Product Safety Act does not clearly provide that the CPSC may disclose product hazard information, essential to a CPSC contractor's research or investigation, to the contractor.

Section 2 of S. 1077 clarifies that the CPSC may disclose product hazard information to CPSC contractors. Thus, section 2 adds "representatives of the Commission (including contractors)" to those groups specifically exempted from the predisclosure provisions by section 6(a)(8) of the Consumer Product Safety Act.

The Committee expects that this amendment will permit the disclosure of CPSC-held information needed by agency contractors for compliance with their contract. Contractors remain bound by Consumer Product Safety Act section 6(d)(2), which requires that contractors comply with the Consumer Product Safety Act section 6 disclosure provisions in making any subsequent disclosure of information to the general public.

SECTION 3.—CHRONIC HAZARD ADVISORY PANEL

Section 28 of the CPSA (15 U.S.C. 2077) requires that the CPSC appoint Chronic Hazard Advisory Panels to advise the CPSC regarding the chronic hazards of cancer, birth defects, and gene mutations, associated with consumer products. In order to avoid possible conflicts of interest by members of a panel, section 28(b)(1) prohibits members of panels from receiving compensation from or having a "substantial financial investment in any manufacturer, distributor, or retailer of a consumer product." Because many otherwise qualified experts have a "substantial financial interest" in manufacturers, distributors, or retailers of consumer products un-

related to the consumer product under investigation by the panel, the CPSC has had difficulty in locating qualified individuals to serve on panels.

Section 3 of S. 1077 amends section 28(b)(1) of the Consumer Product Safety Act, to specify that a member of a Chronic Hazard Advisory Panel may not have a substantial financial interest in any manufacturer, distributor, or retailer of a consumer product "that may be the subject of the Panel's investigation."

SECTION 4.—AUTHORIZATION OF APPROPRIATIONS

Section 4 of S. 1077 amends section 32 of the Consumer Product Safety Act (15 U.S.C. 2081), to provide that Congress authorizes appropriations of $35 million per year for fiscal years 1986 and 1987.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

THE CONSUMER PRODUCT SAFETY ACT

Section 6 of that Act

PUBLIC DISCLOSURE OF INFORMATION

Sec. 6. (a)(1)–(7) * * *

(8) The provisions of paragraphs (2) through (6) shall not prohibit the disclosure of information to other officers [or employees], *employees or representatives of the Commission (including contractors)* concerned with carrying out this Act or when relevant in any administrative proceeding under this Act, or in judicial proceedings to which the Commission is a party. Any disclosure of relevant information in Commission administrative proceedings, or in judicial proceedings to which the Commission is a party, shall be governed by the rules of the Commission (including in camera review rules for confidential material) for such proceedings or by court rules or orders, except that the rules of the Commission shall not be amended in a manner inconsistent with the purposes of this section.

Section 28 of that Act

CHRONIC HAZARD ADVISORY PANEL

Sec. 28. (a) * * *

(b) Each Panel shall consist of 7 members appointed by the Commission from a list of nominees who shall be nominated by the President of the National Academy of Sciences from scientists—

(1) who are not officers or employees of the United States, and who do not receive compensation from or have any substantial financial interest in any manufacturer, distributor, or retailer of a consumer product *that may be the subject of the Panel's investigation;* and

(2) who have demonstrated the ability to critically assess chronic hazards and risks to human health presented by the exposure of humans to toxic substances or as demonstrated by the exposure of animals to such substances.

The President of the National Academy of Sciences shall nominate for each Panel a number of individuals equal to three times the number of members to be appointed to the Panel.

(c)–(h) * * *

Section 32 of that Act

AUTHORIZATION OF APPROPRIATIONS

Sec. 32. (a) There are authorized to be appropriated for the purposes of carrying out the provisions of this Act (other than the provisions of section 27(h) which authorize the planning and construction of research, development, and testing facilities) and for the purpose of carrying out the functions, powers, and duties transferred to the Commission under section 30, not to exceed—

(1)–(7) * * *

(8) $33,000,000 for the fiscal year ending September 30, 1982; [and]

(9) $35,000,000 for the fiscal year ending September 30, 1983 [.];

(10) $35,000,000 for the fiscal year ending September 30, 1986; and

(11) $35,000,000 for the fiscal year ending September 30, 1987.

(b)–(c) * * *

For payment of accumulated and accrued leave under section 5551 of title 5, United States Code, severance pay under section 5595 under such title, and any other expense related to a reduction in force in the Commission, there are authorized to be appropriated such sums as may be necessary.

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